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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Amendment of Section 73.202(b)
Table of FM Allotments,
FM Broadcast Stations.
(Blairsville, Georgia)

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MM Docket No. 00-204
RM-9983

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch

COMMENTS OF COX RADIO, INC.

Cox Radio, Inc. ("Cox"), by its attorneys, hereby respectfully submits these comments in response to the Commission's *Notice of Proposed Rulemaking* in the above-captioned proceeding.¹ Tugart Communications ("Tugart") seeks the creation of an FM allotment for Blairsville, Georgia on Channel 236A as the community's first local aural transmission service. Cox opposes Tugart's petition because the proposed allotment contravenes the line-of-sight requirements of Section 73.315(b) of the Commission's rules.²

Pursuant to Section 73.315(b), the location of the transmitter "should be so chosen that the line-of-sight can be obtained from the antenna over the principle city or cities to be served; in no event should there be a major obstruction in this path."³ The Commission has made clear that compliance with Section 73.315(b) is precluded where the obstruction is major and an antenna of

¹ Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Blairsville, Georgia), DA 00-2364 (rel. Oct. 20, 2000).

² 47 C.F.R. § 73.315(b).

³ *Id.*

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sufficient height to overcome the obstruction is unrealistic.⁴ Furthermore, a proposed allotment must be denied when the petitioner has failed to establish the existence of a site that can provide line-of-sight service to the entire community.⁵

Under Tugart's proposed allotment, two major terrain obstructions block the line-of-sight propagation path between the proposed Channel 236A reference site and the city of Blairsville. As specified in the attached Technical Exhibit, the Gumlog Mountains and the Ivylog Mountains located within the Chattahoochee National Forest interfere with the proposed propagation path.⁶ A tower with a radiation center of 2,400 feet (732 meters) above ground level would be required to satisfy the line-of-sight requirements of Section 73.315(b) toward Blairsville. However, such a tower is prohibited by Federal Aviation Administration ("FAA") requirements.⁷

Cox notes that merely two miles from the proposed reference site, a compliant site is available for purposes of Channel 236A operations. As noted in the Technical Exhibit, Tugart could propose a first local aural service for Hayesville, North Carolina, the seat of government for Clay County, that would be compliant with line-of-sight requirements.⁸ Cox encourages the Commission and Tugart to evaluate this alternative option.

⁴ See *Jefferson City, Cumberland Gap, Elizabethton, Tennessee, and Jonesville, Virginia*, 13 FCC Rcd 2303, 2306 (1998).

⁵ See *Jefferson City, Cumberland Gap, Elizabethton, Tennessee, and Jonesville, Virginia*, 10 FCC Rcd 12207, 12209 (1995), *recon. denied* 13 FCC Rcd 2303 (1998); see also *Bald Knob and Clarendon, Arkansas*, 6 FCC Rcd 7435, 7436 (1991); *Creswell, Oregon*, 4 FCC Rcd 7040, 7041 (1989).

⁶ See Exhibit A.

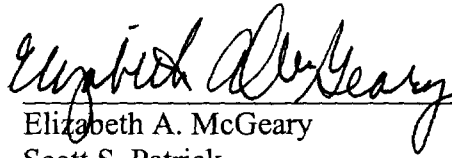
⁷ See *id.*

⁸ See *id.*; see also *1998 Commercial Atlas and Marketing Guide* 450 (Rand McNally 1998) (stating that Hayesville is the seat of government of Clay County, and was a Census Designated Place ("CDP") included in the 1990 Census of Population).

The allotment of Channel 236A to Blairsville, Georgia would violate Section 73.315(b) of the Commission's rules because two major obstructions would interfere with line-of-sight service. Given the availability of a nearby, technically viable site with service to Hayesville, North Carolina, Cox respectfully urges the Commission to deny Tugart's petition requesting allotment of Channel 236A to Blairsville, Georgia.

Respectfully Submitted,

COX RADIO, INC.

By: 
Elizabeth A. McGeary
Scott S. Patrick

Its Attorneys

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202-776-2000

Dated: December 11, 2000

CERTIFICATE OF SERVICE

I, Sandra Dallas, a secretary at the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 11th day of December, 2000, the foregoing "COMMENTS OF COX RADIO, INC." was served via first class mail (except where hand delivery is noted by an asterisk) to the following:

Tugart Communications - *
c/o John F. Garziglia, Esq.
Pepper & Corazzini, LLP
1776 K Street, NW, Suite 200
Washington, D.C. 20006-2334
(*Tugart Communications*)

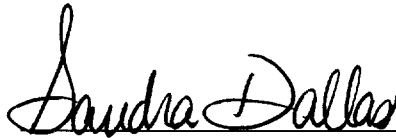

Sandra Dallas

EXHIBIT A
Technical Exhibit

EXHIBIT A
TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
COMMENTS OF COX RADIO, INC.

Technical Statement

This Technical Statement and associated Figures have been prepared in support of the Cox Radio, Inc. comments for a new FM allotment at Blairsville, Georgia. This statement demonstrates that the presently proposed reference point for the Blairsville Channel 236A allotment would violate Section 73.315(b) of the Commission's Rules. Also, an alternative proposed reference point and city of license is proposed.

Background

A new FM allotment on Channel 236A (95.1 MHz) is being proposed at Blairsville, Georgia in MM Docket Number 00-204. The proposed reference coordinates are for a site located 9.9 kilometers (6.2 miles) north of Blairsville.¹

Terrain Blockage into Proposed City of License [73.315(b)]

It is noted that two major terrain obstructions occur in the line-of-sight propagation path between the proposed Channel 236A reference site and the city of Blairsville. This is in violation of Section 73.315(b) of

¹ It appears that the proposed Channel 236A Blairsville reference geographic coordinates identified in the Commission's Notice of Proposed Rule Making are in error. The listed coordinates do not correspond with the coordinates proposed by the Petitioner and that appear in the CDBS. Therefore, the reference coordinates proposed by the Petitioner were employed for this analysis.

the Commission's Rules which prohibit such a major terrain obstruction in this path.

Figure 1 is a terrain profile from the proposed Channel 236A reference point and the community of Blairsville.^{2 3} Two mountains are located between the proposed Channel 236A reference site and Blairsville, the *Gumlog* and *Ivylog Mountains* located within the *Chattahoochee National Forest*. As can be seen from the profile, a tower with a radiation center of 2,400 feet (732 meters) above ground level would be required to satisfy Section 73.315(b) toward Blairsville with a line-of-sight propagation path. Such a tower could not be granted a *Determination of No Aeronautical Hazard* by the Federal Aviation Administration and hence, could not be constructed. Therefore, the proposal violates Section 73.315(b).

Alternate Proposal

As an alternative, another city of license and reference site for Channel 236A is proposed. The table below identifies the alternate proposal:

City of License:	Hayesville, North Carolina
Reference Coordinates:	34° 58' 02" North Latitude 83° 54' 19" West Longitude
Channel:	236A

² The Blairsville, Georgia reference geographic coordinates were obtained from the National Atlas.

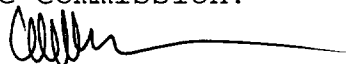
³ The terrain profile shown herein were derived from data contained within the U.S.G.S.'s 3-second terrain database.

According to the 1990 Census of Population and Housing, Hayesville, North Carolina is a town with a population of 279 persons. The proposed Channel 236A would be Hayesville's first aural service.⁴

Figure 2 is the area-to-locate map for Channel 236A showing the proposed Hayesville reference point. Figure 3 is an FM allocation study from the alternate Hayesville reference site. As can be seen, the proposed alternate reference site satisfies the Commission's minimum distance separations to all other stations.

Figure 4 is a terrain profile from the proposed alternate reference site and the city of Hayesville.⁵ As can be seen, there are no major terrain obstructions along this path. Therefore, Section 73.315(b) of the Commission's Rules is satisfied. For this analysis, a typical Class A radiation center of 300 feet (91 meters) was assumed to obtain a line-of-sight propagation path into the proposed city of license.

A coverage map showing the proposed Hayesville FCC predicted 70 dBu contour and also the assumed 70 dBu service contour for a Class A station is shown in Figure 5. Both contours entirely encompass the community of Hayesville as required by the Commission.



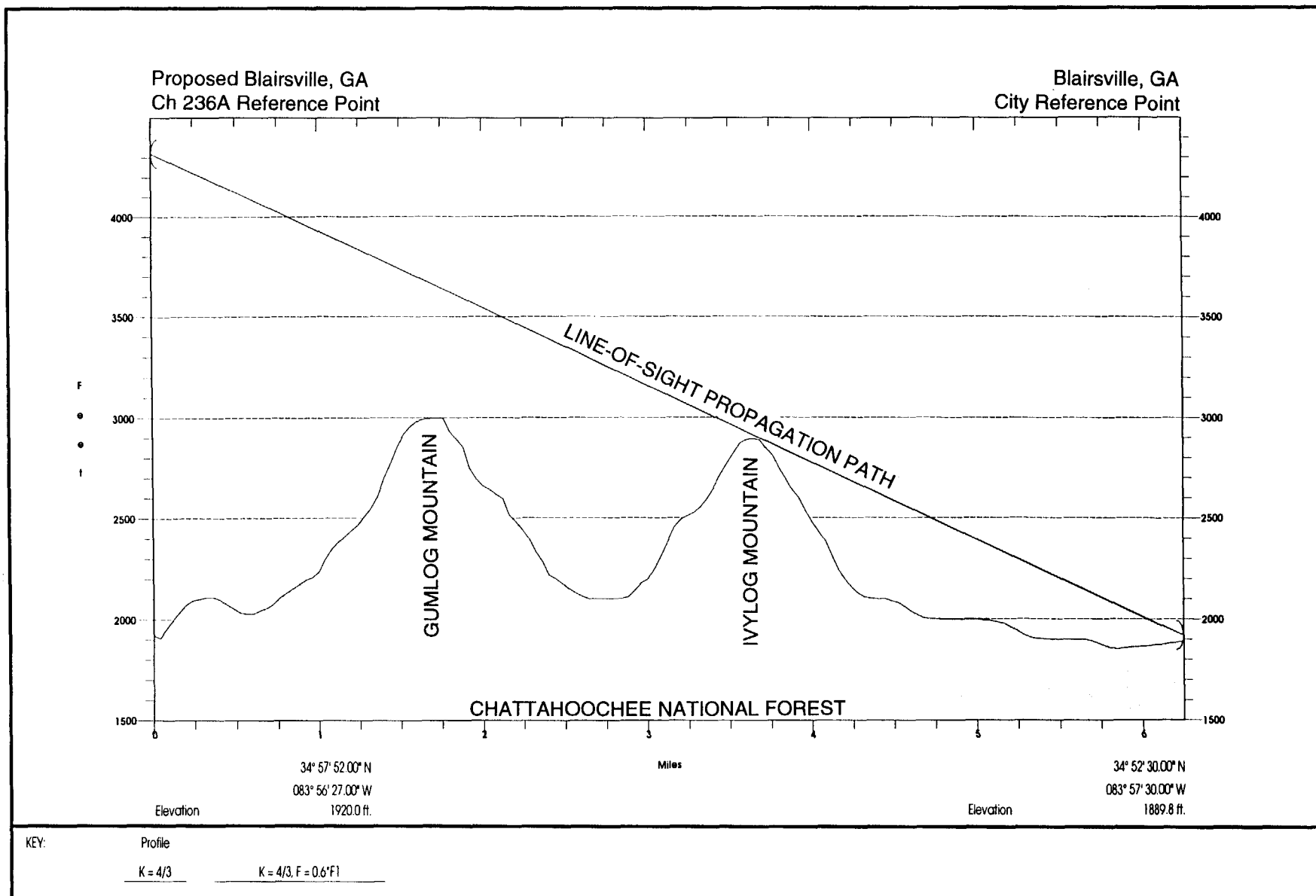
Charles Cooper

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237

December 4, 2000

⁴ As can be seen on the map in Figure 2, the communities of Young Harris and Murphy are also near the Channel 236A area-to-locate, but these communities already have aural services assigned to them.

⁵ The Hayesville, North Carolina reference geographic coordinates were obtained from the National Atlas.



PROPOSED BLAIRSVILLE PROPAGATION PATH

PREPARED FOR
COX RADIO, INC.

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Figure 2

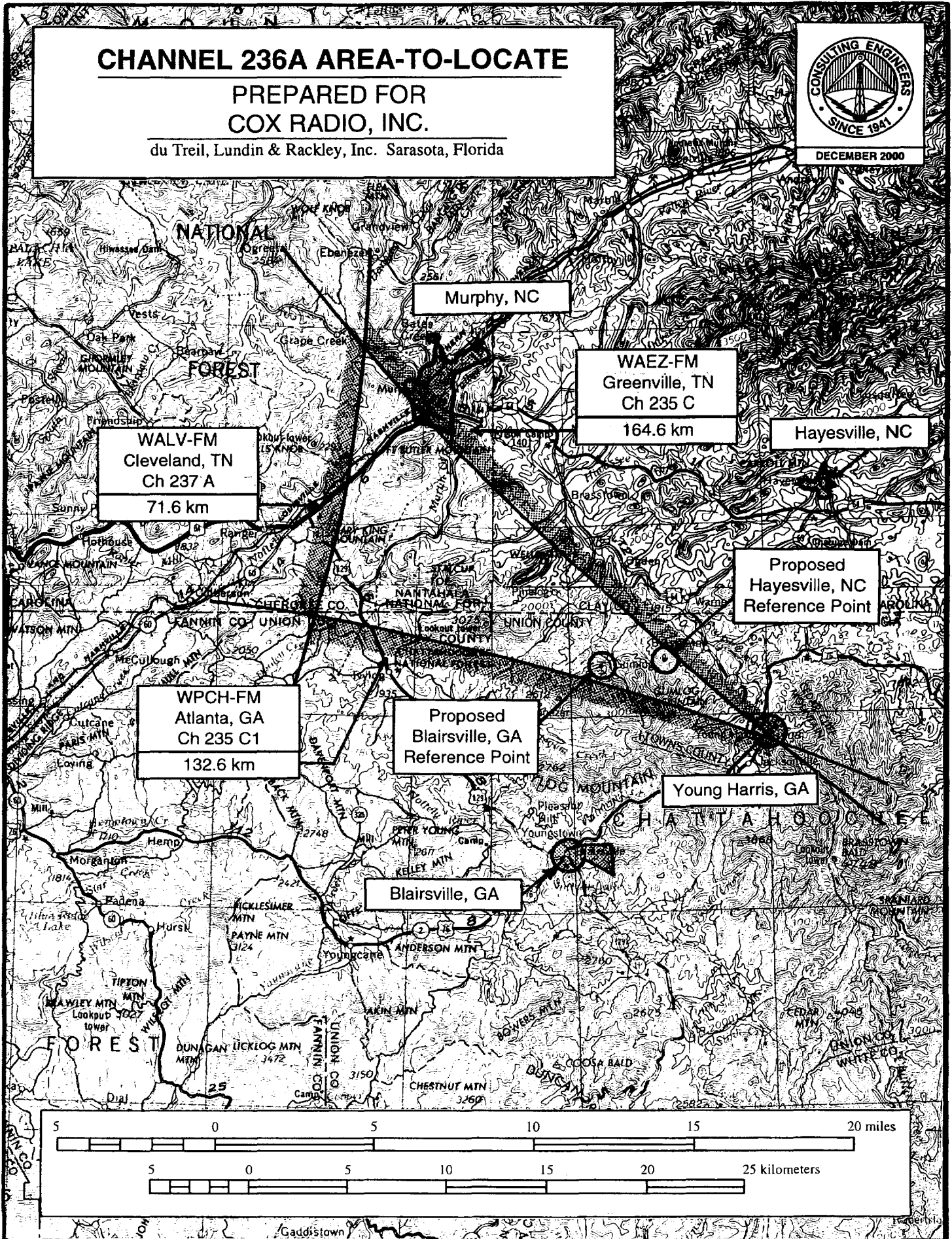


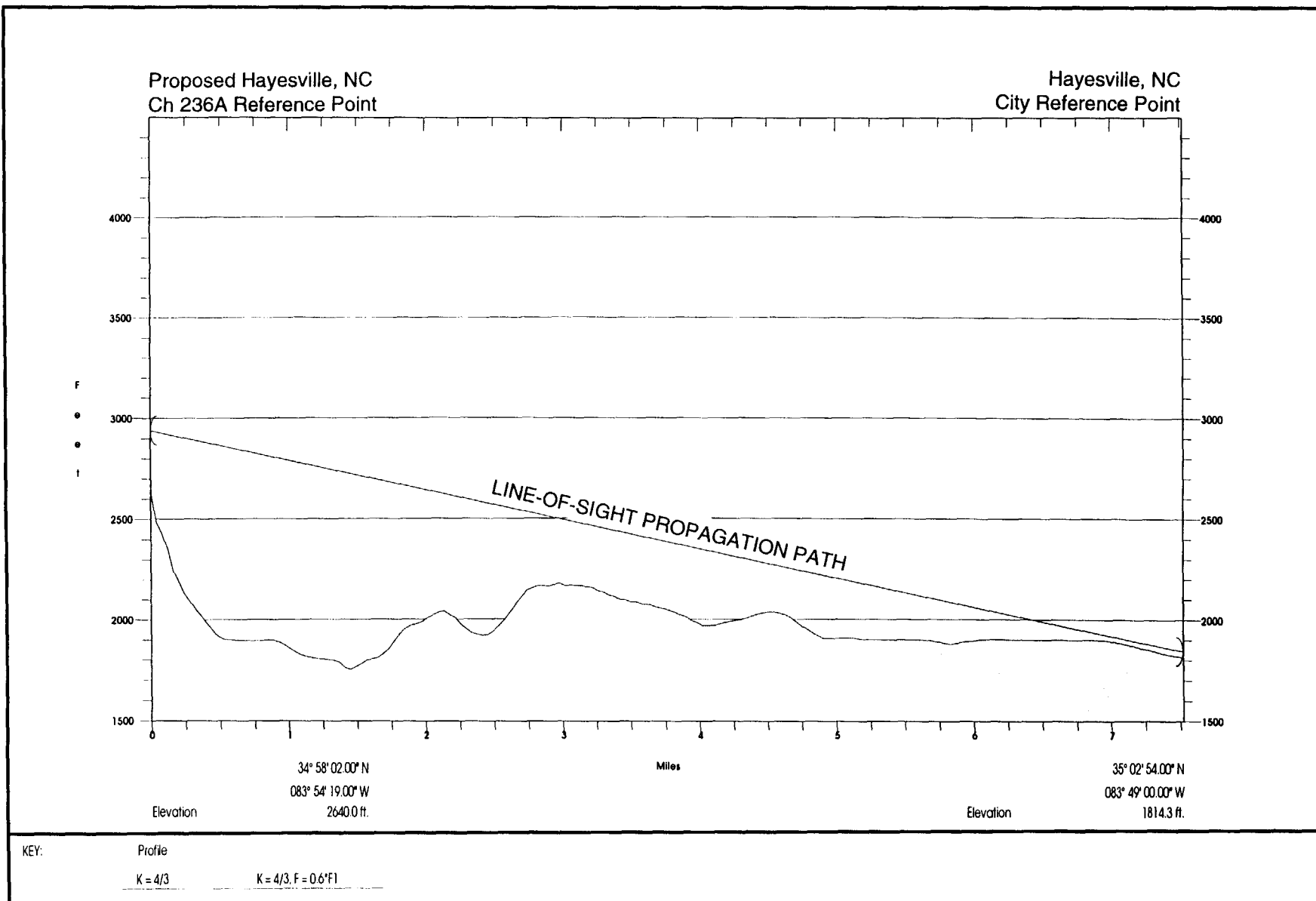
Figure 3

TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
COMMENTS OF COX RADIO, INC.

Channel 236A Allocation Study
Alternate Hayesville, North Carolina Site

34° 58' 02" North Latitude
83° 54' 19" West Longitude

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
WPCH LIC	Atlanta GA		235C1 94.9	100. 298.0	33-48-27 84-20-27	197.3	134.75	133
WAEZ LIC	Greeneville TN	BLH810320AH	235C 94.9	100. DA 332.0	36-04-34 82-41-28	41.4	165.13	165
WNKS LIC	Charlotte NC	BLH980224KB	236C 95.1	100. 470.0	35-21-44 81-09-20	79.2	254.32	226
WALV LIC	Cleveland TN	BMLH911210KC	237A 95.3	3.5 133.0	35-09-54 84-51-13	284.6	89.25	72
WALV CP	Cleveland TN	BPH991122BP	237A 95.3	1.35 DA 212.0	35-07-32 85-00-21	280.3 SS	101.95	72
WBTS LIC	Athens GA	BMLH930923KC	238C 95.5	100. 386.0	34-05-02 83-19-18	151.3	111.69	95
WTXM CP	Maryville TN	BPH971030IE	239A 95.7	6.0 98.0	35-49-53 84-01-25	353.7	96.49	31



PROPOSED HAYESVILLE PROPAGATION PATH

PREPARED FOR
COX RADIO, INC.

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Figure 5

PREDICTED HAYESVILLE, NC 70 dBu COVERAGE CONTOURS

**PREPARED FOR
COX RADIO, INC.**

du Treil, Lundin & Rackley, Inc. Sarasota, Florida



DECEMBER 2000

**Proposed Hayesville, NC
Ch 236A 6kw 100m**

70 dBu

Hayesville, NC

**Proposed Hayesville, NC
Ch 236A 6kw 100m**

**70 dBu
Service Contour (16km)**

